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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,109	08/01/2003	Kalev Kask	AGYT-017CIP2	3629

24353 7590 05/23/2007  
BOZICEVIC, FIELD & FRANCIS LLP  
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EAST PALO ALTO, CA 94303

EXAMINER
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STANDLEY, STEVEN H

ART UNIT	PAPER NUMBER
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1649

MAIL DATE	DELIVERY MODE
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05/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/633,109	<b>Applicant(s)</b> KASK ET AL.	
	<b>Examiner</b> Steven H. Standley	<b>Art Unit</b> 1649	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4 and 7 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
       Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
       Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) ☐ All    b) ☐ Some \* c) ☐ None of:
      - 1. ☐ Certified copies of the priority documents have been received.
      - 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment filed 8/23/06 has been made of record. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior office action. Claims 1-2, 4, and 7 are under examination.

### **Objections/Rejections: Withdrawn**

#### ***Oath/Declaration***

Objection to the Oath/declaration for not having a date of execution is withdrawn due to applicant's argument.

#### ***Claim Rejections - 35 USC § 112***

Rejection of claims 1-2, 4, and 7 under 35 USC § 112, 2<sup>nd</sup> paragraph for reciting "with NMDA receptor on a substrate" is withdrawn due to applicant's amendment.

Rejection of claims 7-13 under 35 USC § 112, 1<sup>st</sup>/2<sup>nd</sup> paragraph, over "a difference" is withdrawn due to applicant's amendment/argument.

### **Objections/Rejections: Maintained/New Grounds**

#### ***Obviousness Double Patenting***

Rejection of claims 1, 4, 7, is maintained for the reasons made of record in the office action dated 5/23/06. Applicant's arguments have been fully considered and not

found to be persuasive. Applicant states that they will file a terminal disclaimer once allowable subject matter is reached. The rejection is hereby maintained until a terminal disclaimer is filed.

***Claim Rejections - 35 USC § 102***

Rejection of claims 1-2 and 4 under 35 USC § 102(b) over Wang et al is maintained for the reasons made of record in the office action dated 5/23/06. Applicant's arguments have been fully considered and not found to be persuasive. Applicant argues that Wang et al does not teach each and every element of the claimed invention, and further argues that, "The present application claims a method for identifying an agent that modulates the phosphatase activity of PTP or binding of PTP to NMDA-R." In contrast to applicant's assertions, claim 1 reads "A method of identifying a modulator of N-methyl-D-Aspartate receptor (NMDA-R) signaling activity, comprising detecting the ability of an agent to modulate the phosphatase activity of a protein tyrosine phosphatase ***with said NMDA receptor...***[emphasis added]." The examiner reads the claim as measuring tyrosine phosphatase activity with (measurements of) said NMDA receptor, which reasonably includes NMDA receptor whole cell currents that change in relation to tyrosine phosphorylation. Therefore Wang et al identify a modulator (orthovanadate) as a modulator of NMDA receptor signaling activity by detecting the ability of an agent to modulate phosphatase activity of a PTP with said NMDA receptor. Wang et al meets the limitations of claims 2 and 4 as previously described in the office action of 5/23/06.

Rejection of claims 1-2, 4, and 7 under 35 USC § 102(b) over Grant is maintained for the reasons made of record in the office action dated 5/23/06. Applicant's arguments have been fully considered and not found to be persuasive. Applicant argues that Grant does not teach every element of the claimed invention and further argues (twice) that Grant does not describe the use of substantially purified proteins. This is not found persuasive because that is precisely what Grant teaches, purified synaptic signaling complexes which contain every element applicant recites (see office action of 5/23/06, page 7-8). Thus, the examiner argues that Grant meets "substantially purified" because Grant has purified NMDA receptor signaling complexes (NRSCs) which contain discreet elements of the postsynaptic protein complex and is purified from all other cellular proteins not involved in NMDA receptor signal transduction (however, include PTPs, PTKs, NMDA receptor). The specification does not provide a narrower definition of "substantially purified" than the purification of Grant. Further, the specification does not teach any definition of substantially purified. Grant teaches identifying compounds that modulate PTP activity and that modulate binding of PTPs and other components of the NRSC to NMDA.

### ***Conclusion***

No claim is allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1649

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H. Standley whose telephone number is (571) 272-3432. The examiner can normally be reached on 8:00-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Janet Andre can be reached on (571) 272-0867. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven Standley, Ph.D.

11/16/06



5/22/07



JANET L. ANDRES  
SUPERVISORY PATENT EXAMINER